

ASSEMBLY BILL

No. 304

Introduced by Assembly Member Williams

February 12, 2013

An act to amend Sections 14022, 14023, and 14024 of the Food and Agricultural Code, relating to pesticides.

LEGISLATIVE COUNSEL'S DIGEST

AB 304, as introduced, Williams. Pesticides: toxic air contaminant: control measures.

(1) Existing law requires the Director of Pesticide Regulation, upon completion of an evaluation of a pesticide, to prepare a report on the health effects of any pesticide determined to be a toxic air contaminant that poses a present or potential hazard to human health due to airborne emission from its use, as specified. Existing law requires this report to be made available to the public, as specified. Existing law also requires the director to determine, in consultation with specified agencies, the need for and appropriate degree of control measures for each pesticide listed as a toxic air contaminant.

This bill would require the written determination regarding control measures for each such pesticide and all findings made by consulting agencies be made available to the public.

(2) Existing law requires, for those pesticides for which a need for control measures has been determined, the director, in consultation with specified agencies, to develop control measures designed to reduce emissions sufficiently so the source will not expose the public to the levels of exposure that may cause or contribute to significant adverse health effects. Existing law requires, after a public hearing, the director to adopt, by regulation, control measures, including application of the

best practicable control techniques for those pesticides for which a need has been determined.

This bill would include pesticides identified by the director as toxic air contaminants within the list of pesticides for which the director is required to develop control measures, as specified above.

This bill would further require the director to follow specified consultation procedures and would require the director, within 2 years of the determination of the need for control measures or following a risk assessment of a pesticide identified as a toxic air contaminant, to adopt control measures to protect human health or report to the appropriate committees of the Legislature why control measures have not been adopted. The bill would require, with respect to any pesticide for which a determination of the need for control measures was made before to January 1, 2014, that the 2-year period described above commence on January 1, 2014.

This bill also would make nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14022 of the Food and Agricultural Code
2 is amended to read:
3 14022. (a) In consultation with the ~~State Department of Health~~
4 ~~Services Office of Environmental Health Hazard Assessment~~ and
5 the State Air Resources Board, the director shall evaluate the health
6 effects of pesticides ~~which~~ that may be or are emitted into the
7 ambient air of California and ~~which~~ that may be determined to be
8 a toxic air contaminant ~~which~~ that poses a present or potential
9 hazard to human health. Upon request of the State Air Resources
10 Board, the director shall include a pesticide for evaluation.
11 (b) The director shall complete the evaluation of a pesticide
12 within 90 days after receiving the scientific data specified in
13 subdivision (c) from the ~~State Department of Health Services Office~~
14 ~~of Environmental Health Hazard Assessment~~ and the State Air
15 Resources Board. The director may extend the 90-day deadline
16 for a period not to exceed 30 days if the director transmits to the
17 Assembly Committee on Rules and the Senate Committee on
18 Rules, for transmittal to the appropriate standing, select, or joint

1 committee of the Legislature, a statement of reasons for extension
2 of the deadline.

3 (c) In conducting this evaluation, the director shall consider all
4 available scientific data, including, but not limited to, relevant data
5 provided by the ~~State Department of Health Services~~ *Office of*
6 *Environmental Health Hazard Assessment*, the Occupational Safety
7 and Health Division of the Department of Industrial Relations,
8 international and federal health agencies, private industry, academic
9 researchers, and public health and environmental organizations.
10 At the request of the director, the State Air Resources Board shall
11 document the level of airborne emissions and the ~~State Department~~
12 ~~of Health Services~~ *Office of Environmental Health Hazard*
13 *Assessment* shall provide an assessment of related health effects
14 of pesticides ~~which~~ *that* may be determined to pose a present or
15 potential hazard and each agency shall provide technical assistance
16 to the department as it conducts its evaluation.

17 (d) The director may request, and any person shall provide,
18 information on any substance ~~which~~ *that* is or may be under
19 evaluation and ~~which~~ *that* is manufactured, distributed, or used by
20 the person to whom the request is made, in order to carry out his
21 or her responsibilities pursuant to this chapter. Any person
22 providing information pursuant to this subdivision shall *identify*,
23 at the request of the director, ~~identify~~ that portion of the information
24 submitted to the department ~~which~~ *that* is a trade secret and, upon
25 the request of the director, shall provide documentation to support
26 the claim of the trade secret. Information supplied ~~which~~ *that* is a
27 trade secret, as specified in Section 6254.7 of the Government
28 Code, and ~~which~~ *that* is so marked at the time of submission shall
29 not be released to the public by the director, except in accordance
30 with Section 1060 of the Evidence Code and Section 21160 of the
31 Public Resources Code.

32 (e) The director shall give priority to the evaluation and
33 regulation of substances based on factors related to the risk of harm
34 to public health, amount or potential amount of emissions, manner
35 of usage of the pesticide in California, persistence in the
36 atmosphere, and ambient concentrations in the community.

37 SEC. 2. Section 14023 of the Food and Agricultural Code is
38 amended to read:

39 14023. (a) Upon completion of the evaluation conducted
40 pursuant to Section 14022, the director shall, in consultation and

1 with the participation of the ~~State Department of Health Services~~
2 *Office of Environmental Health Hazard Assessment*, prepare a
3 report on the health effects of the pesticide ~~which~~ *that* may be
4 determined to be a toxic air contaminant ~~which~~ *that* poses a present
5 or potential hazard to human health due to airborne emission from
6 its use. The report shall assess the availability and quality of data
7 on health effects, including potency, mode of action, and other
8 relevant biological factors, of the substance. The report shall also
9 contain an estimate of the levels of exposure ~~which~~ *that* may cause
10 or contribute to adverse health effects and, in the case where there
11 is no threshold of significant adverse health effects, the range of
12 risk to humans, resulting from current or anticipated exposure.
13 The report shall include the findings of the ~~State Department of~~
14 ~~Health Services~~ *Office of Environmental Health Hazard*
15 *Assessment*. The report shall be made available to the public,
16 subject to subdivision (d) of Section 14022.

17 (b) The report prepared pursuant to subdivision (a) shall be
18 formally reviewed by the scientific review panel established
19 according to Section 39670 of the Health and Safety Code. The
20 director shall also make available the data deemed necessary to
21 the scientific review panel, according to departmental procedures
22 established to ensure confidentiality of proprietary information.
23 The panel shall review, as appropriate, the scientific data on which
24 the report is based, the scientific procedures and methods used to
25 support the data, and the conclusions and assessments on which
26 the report is based. The panel shall submit its written findings to
27 the director within 45 days after receiving the report, but it may
28 petition the director for an extension of the deadline, which may
29 not exceed 15 working days.

30 (c) If the scientific review panel determines that the health
31 effects report is seriously deficient, the report shall be returned to
32 the director who shall revise and resubmit the report, within 30
33 days following receipt of the panel's determination, to the panel
34 ~~prior to~~ *before* development of emission control measures.

35 (d) Within 10 working days following receipt of the findings
36 of the scientific review panel pursuant to subdivision (b), the
37 director shall prepare a hearing notice and a proposed regulation
38 ~~which~~ *that* shall include the proposed determination as to whether
39 a pesticide is a toxic air contaminant. After conducting a public
40 hearing pursuant to Chapter 3.5 (commencing with Section 11340)

1 of Part 1 of Division 3 of Title 2 of the Government Code, the
2 director shall list, by regulation, pesticides determined to be toxic
3 air contaminants.

4 (e) The director shall determine, in consultation with the ~~State~~
5 ~~Department of Health Services~~ *Office of Environmental Health*
6 *Hazard Assessment*, the State Air Resources Board, and the air
7 pollution control districts or air quality management districts in
8 the affected counties, the need for and appropriate degree of control
9 measures for each pesticide listed as a toxic air contaminant
10 pursuant to subdivision (d). Any person may submit written
11 information for consideration by the director in making
12 determinations on control measures. *The written determination*
13 *and all findings made by the consulting agencies shall be made*
14 *available to the public.*

15 SEC. 3. Section 14024 of the Food and Agricultural Code is
16 amended to read:

17 14024. (a) For *pesticides identified by the director as toxic air*
18 *contaminants, as described in subdivision (b) of Section 14021,*
19 *and for those pesticides for which a need for control measures has*
20 *been determined pursuant to subdivision (e) of Section 14023 and*
21 *pursuant to provisions of this code, the director, in consultation*
22 *with the agricultural commissioners and commissioners, air*
23 *pollution control districts, and air quality management districts in*
24 *the affected counties, shall develop control measures designed to*
25 *reduce emissions sufficiently so that the source will not expose*
26 *the public to the levels of exposure which that may cause or*
27 *contribute to significant adverse health effects. Where If no*
28 *demonstrable safe level or threshold of significant adverse health*
29 *effects has been established by the director, the control measures*
30 *shall be designed to adequately prevent an endangerment of public*
31 *health through the application of best practicable control*
32 *techniques.*

33 (b) Best practicable control techniques may include, but are not
34 limited to, the following:

- 35 (1) Label amendments.
- 36 (2) Applicator training.
- 37 (3) Restrictions on use patterns or locations.
- 38 (4) Changes in application procedures.
- 39 (5) Reclassification as a restricted material.
- 40 (6) Cancellation.

1 (c) (1) *The director shall follow the consultation procedures*
2 *set forth in subdivision (a) and, within two years of the*
3 *determination of the need for control measures pursuant to*
4 *subdivision (e) of Section 14023 or following a risk assessment of*
5 *a pesticide identified as a toxic air contaminant pursuant to Section*
6 *14021, shall adopt control measures to protect human health or*
7 *submit a report to the appropriate committees of the Legislature*
8 *setting forth the reasons that this requirement has not been met.*

9 (2) *Reports submitted pursuant to this subdivision shall be*
10 *submitted in compliance with Section 9795 of the Government*
11 *Code.*

12 (d) *For purposes of this section, with respect to any pesticide*
13 *for which a determination of the need for control measures was*
14 *made before to January 1, 2014, the two-year period described in*
15 *subdivision (c) shall commence on January 1, 2014.*

16 ~~(e)~~

17 (e) After conducting a public hearing pursuant to Chapter 3.5
18 (commencing with Section 11340) of Part 1 of Division 3 of Title
19 2 of the Government Code, the director shall adopt, by regulation,
20 control measures, including application of the best practicable
21 control techniques enumerated in subdivision (b) or any other best
22 applicable control technique, for those pesticides for which a need
23 has been determined.